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16

Application Number

10/652,987

Filing Date

08/29/2003

First Named Inventor

Harter, Joseph E., Jr.

Art Unit

2621

Examiner Name

Anyikire, C.

Attorney Docket Number

DP-309898

ENCLOSURES (Check all that apply)

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Remarks

Amended Appeal Brief responsive to the Notification of Non-Compliant Appeal Brief, mailed 01/10/2008. The originally filed Appeal Brief has been amended as follows: the sentence "Appellant is hereby appealing the rejection of Claims 1-5." has been added to Section III - Status of Claims.

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

| | | | |
|--------------|--------------------|----------|-------|
| Firm Name | NAVARRE LAW OFFICE | | |
| Signature | | | |
| Printed name | MARK A. NAVARRE | | |
| Date | 01/22/2008 | Reg. No. | 29572 |

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This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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A handwritten signature in cursive script, appearing to read "Mark A. Navarre".

Mark A. Navarre

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Harter et al.

Group Art Unit: 2621

Cam-Driven Multiple-View Imaging System

Examiner: Anyikire, C.

U. S. Serial No. 10/652,987

Filed: August 29, 2003

PAPER NO. 10 – AMENDED APPEAL BRIEF

Commissioner for Patents

Mail Stop Appeal Brief – Patents

Alexandria, VA 22313-1450

SECTION I -- REAL PARTY IN INTEREST

The real party in interest herein is Delphi Technologies Incorporated, to whom the entire right and interest of the subject patent application have been assigned.

SECTION II -- RELATED APPEALS AND INTERFERENCES

Appellants, Assignee, and the undersigned are not aware of any related appeals or interferences that will directly affect or be directly affected by or have a bearing on the Board's decision in this Appeal.

SECTION III -- STATUS OF CLAIMS

Claims 1-5 are pending and under final rejection.

Appellant is hereby appealing the rejection of Claims 1-5.

SECTION IV -- STATUS OF AMENDMENTS

An amendment after final rejection under 37 CFR 1.116 (Paper No. 5) was submitted on October 16, 2007. Per Advisory Action dated November 8, 2007, the amendment was entered but was not deemed to place the application in condition for allowance. The Notice of Appeal (Paper No. 7) was filed on November 27, 2007.

SECTION V -- SUMMARY OF CLAIMED SUBJECT MATTER

The invention is directed to an apparatus including a mirrored shaft (26) with linearly separated mirrors (20, 24) that is linearly displaced along an axis of the shaft (26) to present two or more different views to an imaging device (12) so that video data produced by imaging device (12) includes data pertaining to the different views. The mirrored shaft (26) is coupled to a rotary cam mechanism (28) by a connecting arm (58), and an electric motor (16) drives the rotary cam mechanism (28) to produce the linear displacement of the mirrored shaft (26). See for example, page 2, line 25 through column 3, line 2.

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SECTION VI -- GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Whether Claims 1-5 are anticipated under 35 USC 102(b) by Bradley et al.
5,771,071.

SECTION VII -- ARGUMENT

The rejection under 35 USC 102(b) is in error because Claims 1-5 are not anticipated by Bradley et al. Claims 2-5 depend from Claim 1 and are patentable over Bradley et al. for at least the reasons presented below in respect to Claim 1. Separate mention is also made of dependent Claim 3.

Independent Claim 1. The rejection of Claim 1 is in error because Bradley et al. do not show either of the following: (1) a mirrored shaft that is linearly displaceable along an axis of the shaft for presenting different views to an imaging device; and (2) a drive means for producing linear displacement of a mirrored shaft along its axis to change the view presented to an imaging device.

Appellants admit that Bradley et al. disclose an apparatus including a mirrored shaft (88) for presenting at least two different views to an interlaced imaging device (44). Alternately, one might consider Bradley's mirrored shaft (114) that is rotatable to adjust the elevation of optical path (48). But in Bradley et al., the mirrored shaft (88 or 114) is rotated (i.e., rotatably displaced about its axis) to present different views to the imaging device (44). As seen in FIG. 4, the mirrored shaft (88) is coupled to a crank arm (94), and a link arm (92) links the crank arm (94) to the pivot pin (106) of a linear solenoid (90); see column 9, lines 23-52. The solenoid output shaft (pivot pin 106) moves linearly, and the link arm (92) and crank arm (94) "translate the linear mechanical action of the solenoid 90 into a rotational action for pivoting the mirror mounting plate 84 between a first and second position corresponding to a first and second condition of the solenoid 90"; see column 9, lines 40-45. In the case of mirrored shaft (114), an electric motor (118) rotates the shaft (114) through a gearbox (116); see FIG. 5 and column 10, lines 1-15.

Appellants respectfully submit that the teachings of Bradley et al. cannot anticipate the apparatus of Claim 1. In fact, Bradley et al. teach what might be regarded as the opposite of Claim 1. Instead of a mirrored shaft (26) that is linearly displaceable along its axis to present different views to an imaging device (12), Bradley et al. disclose a mirrored shaft (88) that is rotatable about its axis to present different views to the

imaging device (44). And instead of a drive means for producing linear displacement of the mirrored shaft (26) along its axis to change the view presented to the imaging device (12), Bradley et al. disclose a drive means that produces “a rotational action for pivoting” the mirrored shaft (88) -- i.e., rotating it alternately clockwise and counter-clockwise. Instead of anticipating Claim 1, Bradley et al. teach away from Claim 1.

In a continuation sheet of the Advisory Action, the examiner stated the following:

“The applicant’s argument that Bradley teaches a drive means for rotating the shaft is correct, but prior art also discloses a linear solenoid of the type that linearly actuates an element responsive to a control signal. The linear solenoid is used as a drive means to linearly displace the mirror shaft.”

The undersigned telephoned the examiner to clarify whether by the term “prior art” he meant Bradley et al. or a reference other than Bradley et al., and the examiner responded that he was in fact referring to Bradley et al. However, the only reference Appellants can find to a linear solenoid in Bradley et al. is the above-discussed portion of column 9 describing how the link arm (92) and crank arm (94) translate the linear mechanical action of the solenoid (90) into a rotational action for pivoting the mirror mounting plate 84. Bradley et al. do not suggest an alternate view changing apparatus, only the one(s) shown in the drawings. It is the examiner who is suggesting a different kind of view changing apparatus, with no basis for doing so other than Appellants’ own specification. It is inescapable that the examiner is relying on hindsight reconstruction, and not on the reference for what it fairly teaches.

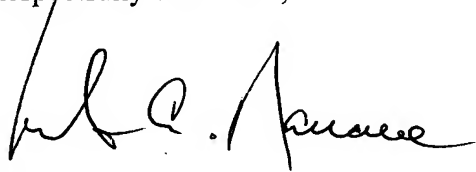
In conclusion, Appellants respectfully request that the rejection under 35 USC 102(b) be withdrawn. For the reasons stated above, Claim 1 is not anticipated by Bradley et al., and Claims 2-5 are patentable because they depend directly or indirectly from Claim 1.

Dependent Claim 3. In addition to the reasons given above in respect to the rejection of Claim 1, the rejection of Claim 3 is in error because Bradley et al. do not disclose a mirrored shaft including first and second linearly separated mirrors that are

alternately in position with respect to the imaging device during successive data acquisition periods of the imaging device. In Bradley et al., each mirrored shaft has only one mirror; the steering mirror (64) is coupled to shaft (114), and the flip mirror (82) is coupled to shaft (88).

Summary. Appellants respectfully submit that the rejection of Claims 1-5 under 35 USC 102(b) is in error as demonstrated above, and therefore request that the Board reverse such rejection.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Mark A. Navarre", written over a horizontal line.

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Registration No. 29572
Telephone: (937) 653-3501

SECTION VIII -- CLAIMS APPENDIX

1. (previously amended) An imaging system, comprising:

an interlaced imaging device;

a mirrored shaft that is linearly displaceable along an axis of the shaft for presenting different views to said imaging device;

drive means including an electric motor for producing linear displacement of said mirrored shaft along said axis to change the view presented to said imaging device; and

control means for controlling said electric motor in response to a data acquisition control signal of the imaging device such that interlaced video data produced by said imaging device includes data pertaining to two or more different views.

2. (original) The imaging system of Claim 1, wherein said data acquisition control signal is a vertical synchronization control signal that coordinates readout of said video data.

3. (previously amended) The imaging system of Claim 2, wherein said mirrored shaft includes first and second linearly separated mirrors that are alternately in position with respect to said imaging device during successive data acquisition periods of said imaging device.

4. (original) The imaging system of Claim 1, wherein said drive means includes a rotary cam mechanism driven by said electric motor and a connecting arm coupling said cam mechanism to said mirrored shaft.

5. (original) The imaging system of Claim 4, wherein said control means continuously drives said electric motor at a speed that is in synchronism with said data acquisition control signal.

SECTION IX – EVIDENCE APPENDIX

None.

SECTION X – RELATED PROCEEDINGS APPENDIX

None.